

Streamlining the Permit Process while Protecting Public Waters

Proposed Rule - Timelines & Procedures - NR 300 & 310

Wisconsin Act 118 created a three-tier permit system intended to speed permit decisions without reducing protection of fish and wildlife habitat, navigation, water quality and natural scenic beauty. All of the administrative procedures for public waters permits needed change to adapt to the new system. A detailed procedures rule is proposed in order that waterfront property owners, developers, consultants and other water users, have clear expectations about the permit process and can plan accordingly for their projects, or participate constructively in decisions about public waters. Details also ensure that DNR staff all carries out the new law the same way.

Fees & Timelines

Public waters permit applications decisions have always been governed by deadlines. The current fee system has been in place since 1988, with fees based on the relative agency review times. Proposed changes include:

- DNR must determine whether an application is complete within 30 calendar days (was 60 days)
- DNR must act on a general permit within 30 calendar days or the permit is approved (previously there were no such general permits).
- DNR must make a final determination on individual permits not requiring a public notice within 105 calendar days (was generally 120 days before)
- DNR must make a final determination on individual permits requiring a public notice within 150 calendar days (was generally 180 days).
- DNR must make determinations on exemption requests that grant permission to inspect the property within 15 days or the exemptions is presumptively approved (previously there were not exemption determination requests).
- General permits have a fee of \$50 – except for activities where determining whether or not a plan meets the GP specifications requires detailed review (fees are then \$300).

Permit Application & Decision Procedures

Procedures in the proposed NR300-310 for exemptions, general permits and individual permits were written to be in strict conformance with procedures and timelines established in Act 118. The most complex changes are in the public notice and hearing process that was significantly changed.

- Individual permits are required for all activities that are not exempt and not covered by a general permit. A 30 day public notice is now required for all individual permits.
- Applicants are responsible for providing adequate written notice to all interested persons and publishing the newspaper notice.
- An informational hearing is available, rather than a hearing before an administrative law judge, prior to DNR's permit decision.
- The permit decision may be appealed to obtain a hearing before an administrative law judge.

Issues & Alternatives

One provision is at issue: The Joint Committee on Review of Administrative Rules suspended a provision that DNR's permit decision be effective 30 days after the date of issue. Many projects are well underway as soon as a permit is issued – and may be completed before an appeal is filed that can stop the work. For applicants, this can mean rework. For concerned citizens, this can mean legal fees to try stopping the work. For lakes and streams, in some instances this can mean irreversible impacts. In drafting its temporary NR310, DNR considered a number of options including staff

discretion to delay permit effective dates and delayed effective dates for subsets of permits – and for the temporary rule and the purpose of public hearings, selected the simple uniform approach.

What do YOU Think?

DNR is looking for your input concerning these proposed rules. You can participate in one of several ways.

Fill out a written questionnaire at a public hearing **open house**.

Send comments over the **internet** at
<https://apps4.dhfs.state.wi.us/admrules/public/Home>

Testify at a public hearing (see locations, dates and times by clicking on DNR's page, then on "Permits & Licenses," then "Waterway & Wetlands.")

Mail DNR your written comments to Ms. Roberta Lund, DNR FH/3, P.O. Box 7921, Madison, WI, 53707-7921.

Comments accepted through August 9, 2004